

# **Durham Historic Preservation Commission**

## **Rules of Procedure**

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## **Rules of Procedure**

### **Section 1: Introduction**

#### **1.1. Purpose**

To establish procedures for organizing the business of the Durham Historic Preservation Commission, hereafter referred to as the Commission, in executing its duties and responsibilities.

#### **1.2. General**

The Commission shall be governed by the terms of the Interlocal Cooperation Agreement, by the Durham Unified Development Ordinance and by the terms of NCGS 160A, Article 19, Part 3C as they may be amended or revised. The Commission shall also be governed by these rules to the extent that they do not conflict with the law. For procedures not covered by these rules, the Commission shall follow the rules contained in Roberts Rules of Order, Revised, except that the legal requirements for Certificates of Appropriateness will supersede Roberts Rules.

### **Section 2: Officers**

#### **2.1. Chairperson**

The Chairperson shall preside at all meetings and public hearing, make committee appointments, and decide all points of order and procedure subject to these rules unless directed otherwise by a majority of the Commission in session at that time. The Chairperson shall have the right to vote, but shall not have the right to break a tie vote in which he or she participated.

#### **2.2. Vice Chairperson**

The Vice Chairperson shall serve as acting Chairperson in the absence of the Chairperson and at such time have all the powers, duties and voting rights as the Chairperson.

#### **2.3. Secretary**

A staff member of the Durham City-County Planning Department (Planning Department) shall serve as Secretary. The Secretary, subject to the direction of the Chairperson and Commission, shall keep all records, shall conduct all correspondence of the Commission, and shall generally perform the clerical work of the Commission. The Secretary shall keep the minutes of every meeting of the Commission. The minutes shall show the record of all important facts pertaining to each meeting, every resolution acted upon by the Commission and all votes of the Commission members upon any recommendation, resolution or upon the final determination of any questions before the Commission, indicating the names of members absent or failing to vote.

#### **2.4. Election of Officers**

The Chairperson and Vice Chairperson shall be elected annually at the Commission's first meeting in January. The Chairperson and Vice Chairperson shall serve terms of one (1) year and shall be eligible for re-election. A majority of members present shall be necessary to elect officers.

#### **2.5. Vacancy**

- a. A vacancy in the office of Chairperson shall be filled by the Vice Chairperson succeeding to the office for the balance of the unexpired term.
- b. A vacancy in the office of Vice Chairperson (including a vacancy due to 2.5.a. above) shall be filled by election of a Vice Chairperson from the Commission for the balance of the unexpired term.

### **Section 3: Meetings**

#### **3.1. Regular Meetings**

Regular meetings of the Commission shall be held on the first Tuesday of each month 8:30 am in the

Committee Room, Second Floor, Durham City Hall. Regular meetings will be adjourned within two (2) hours, but may be continued past that time with a unanimous vote of members present. When the regular meeting day falls on a legal holiday, the Commission shall meet on the first available date thereafter at the same time and place.

### **3.2. Special Meetings**

Special meetings may be called by the Chairperson, or by written request of two (2) members of the Commission submitted to the Commission or Chairperson. Written or oral notice of special meetings shall be given to all members at least forty-eight (48) hours prior to the meeting and shall state the time, place and purpose of the meeting.

### **3.3. Cancellation of Meetings**

Whenever there is no business to come before the Commission, the Chairperson may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

### **3.4. Quorum**

A quorum shall consist of five (5) members of the Commission. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for the purpose of determining whether or not a quorum is present.

### **3.5. Order of Business**

The order of business at regular meetings shall be as follows:

- a. Call to order;
- b. Roll call;
- c. Approval of minutes;
- d. Swearing-in of witnesses;
- e. Hearing and consideration of each case;
- f. Report from committees;
- g. Unfinished business;
- h. New business;
- i. Adjournment.

The order of business may be varied by unanimous consent of the members present.

### **3.6. Time Limits**

- a. The Commission may limit the length of a meeting or set a time for adjournment by a concurring vote of five (5) members.
- b. The Commission may limit the time each person at a public hearing is allowed to speak by a concurring vote of five (5) members.

### **3.7. Open Meetings**

All regular and special meetings, public hearings, records, and minutes of the Commission shall be open to the public. The press shall be notified by telephone or in person of special meetings at least forty-eight (48) hours prior to the meeting.

### **3.8. Agenda**

- a. The agenda for each regular or special meeting or public hearing shall be prepared by the Secretary of the Commission, after consultation with the Chairperson.
- b. The agenda for each meeting shall be mailed to all members no later than seven (7) days prior to the scheduled meeting or hearing, except in the case of special meetings called under Section 3.2., in which the agenda will be delivered or orally transmitted, as

appropriate, to the members no later than forty-eight (48) hours prior to the scheduled meeting or hearing.

- c. No business, either old or new, may be considered by the Commission unless such item properly appears on the agenda. However, any matter may be considered by the Commission as a non-agenda item if such matter is approved for consideration by a majority vote of the members present.

### **3.9. Attendance**

A member who will be unable to attend the regular meeting of the Commission must contact the Chairperson or Secretary at least twenty-four (24) hours before the scheduled meeting and indicate the general reason for being absent to receive an excused absence. Earlier notification is encouraged. Unforeseen emergencies or illnesses shall be considered excused absences. The Commission will be notified of the absence and reason at the meeting.

## **Section 4: Conducting Business**

### **4.1. Decisions**

The vote of a majority of those members present shall be sufficient to decide any matter before the Commission, provided a quorum is present. No member shall be excused from voting except as required in Section 4.2. or Section 4.4. In all other cases, a failure to vote by a member who is physically present in the meeting room or who has withdrawn without being excused by a majority voted of the remaining members, shall be recorded as an affirmative vote. A negative vote or a tie vote on a motion to approve a Certificate of Appropriateness shall constitute a disapproval of the motion. Voting will be by roll call of the Commission members for decisions related to the issuance of Certificates of Appropriateness or for other business for which a roll call is deemed necessary by the Chairperson.

### **4.2. Qualifications to Vote**

No Commission member shall vote on any matter before the Commission unless that member shall have attended the Commission's previous deliberations on such matter, or shall otherwise have the approval of the Chairperson to vote on such matter. The Chairperson's approval shall be contingent on the assurance by the member that the member has read any material distributed to the Commission members related to the matter and the minutes of any meeting at which the matter was discussed.

### **4.3. Impartiality Required**

No Commission member shall, in any manner, discuss any application with any parties prior to the Commission's deliberations on such application, except as authorized in advance by the Chairperson; however, members may seek and/or receive information pertaining to the application from any other member of the Commission or its staff prior to the hearing.

### **4.4. Conflict of Interest**

No Commission member shall take part in any hearing, consideration, determination or vote concerning a property in which the Commission member or a close relative (spouse, sibling, child or parent):

- a. Is the applicant before the Commission;
- b. Owns property within 100 feet of the subject property; or
- c. Has a financial interest in the subject property or improvements to be undertaken thereon.

In addition, a Commission member may request to be excused from taking part in any hearing, consideration, determination or vote concerning a property in which a business associate or employer of the Commission member:

- d. Is the applicant before the Commission;
- e. Owns property within 100 feet of the subject property; or
- f. Has a financial interest in the subject property or improvements to be undertaken thereon.

#### **4.5. Motions**

The Commission shall proceed by motion. Any member, including the Chairperson, may make or second a motion. A substantive motion (non-procedural motion) is out of order while another substantive motion is pending. A motion may be withdrawn by the introducer at any time before a vote.

#### **4.6. Debate**

The Chairperson shall state the motion and then open the floor to debate on it. The member who makes the motion is entitled to speak first. A member who has not spoken on the issue shall be recognized before someone who has already spoken.

#### **4.7. Procedural Motions**

In addition to substantive motions, the following procedural motions, and no others, shall be in order in the following priority:

- a. To adjourn. This motion may be made only when action on a pending matter concludes; it may not interrupt deliberations of a pending matter.
- b. To take a recess.
- c. Call to follow the agenda. The motion must be made at the first reasonable opportunity or it is waived.
- d. To suspend the rules.
- e. To defer consideration. A substantive motion, consideration of which has been deferred, expires one hundred (100) days thereafter unless a motion to revive consideration is adopted.
- g. Call of the previous question. The motion is not in order until there has been at least twenty (20) minutes of debate, and every member has had an opportunity to speak once.
- h. To postpone to certain time or day.
- i. To refer to a committee. Sixty days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Commission, regardless of whether the committee has reported the matter back to the Commission.
- j. To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposition of the motion's intent. The motion may be amended and an amendment may be amended, but no further amendments may be made.
- k. To revive consideration. The motion is in order any time up to 100 days after a vote to defer consideration. A substantive motion, consideration of which has been deferred, expires 100 days thereafter unless a motion to revive consideration is adopted.
- l. To reconsider. The motion must be made by a member who voted with the prevailing side. It must be made at the same meeting as the vote was taken. It cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment.
- m. To rescind or repeal.
- n. To ratify.

#### **4.8. Suspension of Rules**

The Commission may, upon an affirmative vote of six (6) members, suspend these rules of procedure for consideration of any matter before the Commission.

### **Section 5: Amendments**

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than five (5) members of the Commission, provided that such amendment shall have first been presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

## Section 6: Notification

In order to facilitate the exercise of the Commission authority and responsibility in promoting, enhancing and preserving the character and heritage of Durham's historic resources, the Commission requests that the Director of the Planning Department notify the Commission of pending applications for zoning changes, use permits, variances and demolition permits, and proposed zoning text amendments or other proposals which effect historic resources in the County of architectural or cultural significance.

## Section 7: Application for COA

### 7.1. Forms

Application forms for a Certificate of Appropriateness (COA) are available in the offices of the Planning Department.

### 7.2. Submission of Completed Applications

When the applicant has completed the application by providing the information required by Section 7.7., he or she shall submit the completed application to the Planning Department.

### 7.3. Application Fee

An application fee, of an amount to be determined by the City Council or the Board of County Commissioners, as appropriate, must accompany completed applications.

### 7.4. Planning Department Review

The Planning Department shall review each application for completeness and for compliance with the other zoning requirements on the property and, if necessary, consult with the Directors of the City or County Inspections Department, as appropriate.

### 7.5. Application Deadline

The deadline for filing of applications for COAs will be five weeks prior to the Commission's regular meeting for applications to be heard at the Commission meeting of the following month.

### 7.7. Application Information

In accordance with the Durham Zoning Ordinance Section 5.6.6.7.b. Content of Application, the Commission hereby establishes that the following information and data are necessary to properly evaluate an application for COA, and shall be provided by the applicant.

- a. Parcel Identification Number;
- b. Property address;
- c. Name of the property owner;
- d. Owner's address, daytime phone number;
- e. Name of the applicant;
- f. Applicant's address, daytime phone number;
- g. Date of application;
- h. Architect (if applicable);
- i. Architect's address, daytime phone number;
- j. A written description of proposed changes in the appearance of the exterior of the structure or of the site.
- k. Three copies of drawings showing building alterations and/or additions to existing structures or showing new construction. As used here, drawings will mean plans and exterior elevations drawn to scale, with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of buildings; proposed materials including textures and colors; site layout including walls, walks, terraces, parking areas, plantings, accessory buildings, signs, lights and other physical elements.
- l. One copy of the drawings described above in 8 1/2" x 11" format.



- m. Legible photographs showing all sides of the structure under consideration and photographs showing adjacent structures.
- n.
- o. Any other supporting statements, drawings or material that the applicant may believe will assist in communicating his or her plans for the site and structure.
- p. If a previous application for COA for the same property has been denied, the applicant shall specify the substantial changes made to the plans for the proposed modification or substantial changes in conditions in the district.

## **Section 8: Public Hearing Notice**

### **8.1. Advertisement**

The Planning Department shall publish a notice in the Durham Herald-Sun on the two Fridays prior to the regular Commission meeting that the Commission will consider each case.

### **8.2. Notification of Property Owners**

The Planning Department shall mail a notice to owners of adjacent property under consideration. This notice will be mailed at least seven (7) days prior to the Commission meeting at which the case is to be heard.

## **Section 9: Public Hearings**

### **9.1. Agenda and Case Report Mailed to Commission**

A meeting agenda and a staff report for each case will be mailed to the Commission members at least seven (7) days prior their regular meeting.

### **9.2. Public Hearings**

The Commission shall conduct its public hearings as generally outlined below, except that the Chairperson of the Commission may, at his or her discretion, amend the procedures as necessary for the expeditious conduct of the Commission's business.

- a. The Chairperson shall call the public hearing to order.
- b. The Chairperson shall acknowledge that the proceedings are being recorded and that written minutes of the meeting will be kept by the Secretary.
- c. The Chairperson (or Vice-Chairperson, if presiding) shall swear-in or affirm all witnesses.
- d. The staff shall present the case background and staff recommendation.
- e. The Commission shall receive testimony from persons in favor of the COA.
- f. The Commission shall receive testimony from persons opposed to the COA.
- g. The Chairperson may establish time limits for each side of the issue and for each individual speaker.
- h. Discussion of the case by Commission members.
- i. The Commission shall make findings of fact indicating the extent to which the application is or is not consistent with the historical character and qualities of the district.
- j. The Commission shall make its decision.
- k. The Commission shall state the effective date of approval of a COA for demolition if applicable.

## **Section 10: Issuance of the COA**

### **10.1. Approval Stamp**

Upon approval of the COA application by the Commission, Planning Department shall denote with an

inked rubber stamp the approval on three (3) of the copies of the drawings submitted with the application. The Planning Department shall keep one (1) copy in its case record file, submit one (1) copy to the City or County Inspections Department, as appropriate, and return one (1) copy to the applicant.

### **10.2. Previously Denied COA**

If changes are made to the drawings as a result of conditions on the COA stipulated by the Commission, the applicant shall submit drawings incorporating the changes to the Planning Department. If the drawings conform to the conditions imposed by the Commission, the Planning Department shall denote approval with an inked rubber stamp and distribute copies as described in Section 10.1. The applicant may not proceed under the COA until the modified drawings are approved pursuant to this section.

### **10.3. COA Expiration**

The COA expires one (1) year from the date of issuance unless a building permit is issued in that time.

## **Section 11: Appeals**

### **11.1. Appeals Time Limit**

In accordance with the Durham Zoning Ordinance, Section 5.6.6.11 Appeal of Decision, the Commission hereby establishes that appeals to the actions of the Commission in granting or denying any COA shall be filed with the Board of Adjustment within thirty (30) days of the day of the applicant's receipt of the Commission's decision.

## **Section 12: Classification of Approvals**

The following lists classify the types of approvals required for work in a local historic district or landmark. Classifications are based on the scope of work, project scale, and amount of deviation from historic materials and methods.

### **12.1. Normal Maintenance**

The Commission considers the following activities to be routine maintenance of historic properties. The following activities do not require a Certificate of Appropriateness. However, other City permits may be necessary.

- a. All interior work.
- b. Exterior painting of a previously painted surface.
- c. Replacement of window glass and frames as long as window size and style is not altered.
- d. Caulking and weather stripping.
- e. Installing side and rear yard landscaping, including vegetable and flower gardens, shrubs, and trees.
- f. Landscape maintenance, including pruning trees and shrubs (except where the landscaping is used to screen mechanical equipment or utilities).
- g. Real estate, political signs, temporary or incidental signs less than two square feet in area.
- h. Repairs to walks, patios, fences and driveways as long as replacement materials match the existing materials.
- i. Replacement of small amounts of missing or deteriorated siding, trim, roofing, flooring, steps, gutters and down spouts etc., as long as the replacement materials are exactly the same as the existing materials in scale, style, design, and materials.

### **12.2. Work Requiring a Certificate of Appropriateness**

#### **a. Administrative Approvals.**

Certain activities are considered by the Commission to not have a significant impact on the exterior appearance of the historic structures, and are delegated to the appropriate staff person for administrative approval.

b. **Minor Works.**

Minor Works primarily consist of changes to existing elements or the introduction of new elements that are relatively small in scale and overall impact to the structure, yet change its appearance. Minor Works are required to be reviewed by the Commission. A public hearing is not required for these projects.

c. **Major Works.**

Major Works consist of large scale modifications which significantly alter the appearance of the structure or site. These projects are required to be reviewed by the Commission. The Commission shall hold public hearings for these cases.

d. **Classification of Approvals by Scope of Work**

The following chart indicates the level of approval required for various types of work.

	Administrative Approval	Historic Preservation Commission Approval	
Type of Work	(Staff Review)	Minor Work	Major Work
<b>I. Architectural Work</b>			
<b>a. New Construction</b>			
i. Installation of new pre-fabricated outbuilding	✓		
ii. New structure less than 144 sq. ft.		✓	
iii. New structure greater than 144 sq. ft.			✓
<b>b. Relocation of Structures</b>			
i. Outbuilding less than 144 sq. ft.	✓		
ii. Outbuilding greater than 144 sq. ft.		✓	
iii. Primary structure			✓
<b>c. Demolition</b>			
i. Contributing primary structure			✓
ii. Non-contributing primary structure		✓	
iii. Contributing outbuilding		✓	
iv. Non-contributing outbuilding	✓		
v. Building additions, porches, or other extant features		✓	
vi. Character defining building elements or details without reconstruction		✓	
vii. Non-character defining building elements or details without reconstruction	✓		
<b>d. Additions to Structures</b>			
i. Addition of substantial spaces such as rooms			✓
ii. Addition of front or side decks or porches		✓	
iii. Addition of new rear decks or porches	✓		
<b>e. Windows and Doors</b>			
i. Replacement of original windows		✓	

ii. Modification of existing window or door openings		✓	
iii. Replacement of non-original windows	✓		
iv. Addition of new windows facing the street		✓	
v. Addition of new windows not facing the street	✓		
vi. Installation, replacement, or removal of doors	✓		
vii. Installation, replacement, removal of storm windows and doors	✓		
viii. Alteration or new construction of storefronts	✓		
ix. Restoration of original window or door openings where doors and windows match original or existing	✓		
x. Installation of window air conditioning units visible from the street		✓	
xi. Installation of window air conditioning units not visible from the street	✓		
<b>f. Roofs</b>			
i. Alteration of roof covering	✓		
ii. Alteration of roof form (including alteration, removal, or construction of dormers)		✓	
iii. Installation of skylights or solar panels visible on front facade		✓	
iv. Installation of skylights and solar panels not visible on front facade	✓		
v. Construction of new or modification of existing chimneys		✓	
vi. Installation of gutters	✓		
<b>g. Other Building Alterations</b>			
i. Alterations or construction of building elements (including columns, railings, stairs, landings, ramps and flooring)		✓	
ii. Alterations or construction of architectural details (including molding, brackets, or decorative woodwork)	✓		
iii. Change in cladding material or style		✓	
iv. Removal of non-original cladding which hides historic materials or details underneath	✓		
v. Painting of previously unpainted surface		✓	
vi. Changes to any non-contributing outbuilding	✓		
<b>II. Site Work</b>			
<b>a. Parking areas</b>			
i. New residential driveways or changes to existing residential driveways	✓		
ii. Changes to existing parking lots	✓		
iii. New surface parking lots		✓	
<b>b. Fences or Walls</b>			
i. Within the street yard (between the facade of the structure and the ROW)		✓	

ii. Within the rear or side yard	✓		
c. Planting or removal of trees and planting of shrubs in the street yard	✓		
d. Light fixtures and poles (new or replacement)	✓		
e. Walkways, patios or other paving	✓		
f. ADA Compliance			
i. Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will have a significant impact on the character of the structure		✓	
ii. Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will <u>not</u> have a significant impact on the character of the structure	✓		
g. Ornamental structures	✓		
h. Installation, relocation, or removal of mechanical equipment	✓		
<b>III. Signs</b>			
a. Freestanding Signs			
i. New freestanding signs requiring a sign permit		✓	
ii. New freestanding signs allowed without a sign permit	✓		
b. Building Mounted Signs			
i. New building-mounted signs greater than 24 sq. ft. in area		✓	
ii. New building-mounted signs up to 24 sq. ft. in area	✓		
iii. New building mounted signs allowed without a sign permit	✓		
c. Replacement of signs with new ones to match the old in size and location	✓		
<b>IV. Previously Approved COAs</b>			
a. Renewal of Expired COA	✓		
b. Minor Amendments	✓		
c. Substantial amendments		✓	
<b>V. Other</b>			
a. Work items not listed here for which a clear citation can be made for conformance with the local review criteria	✓		
b. Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the local review criteria, or not in conformance with the criteria		✓	
<b>VI. Emergency Installations/Repairs –</b>			
Installation of temporary features to protect a historic resource that do not permanently alter the resource. Six month duration with in-kind reconstruction or an approved COA.	✓		